IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE HON''BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 3346 of 2005

Between:

Sri Surya Rama Modern Rice Mill, A partnership fir,

Rep. By Managing Partner, Degaga Ganga Raju,

Plot No.3 & 4, IDA Area, Ramannayyapeta, Kakinada-9,

Rep. By Sri Degala Venkateswarlu

S/o.Surya Rao, aged about 49 years,

Occ: Business, R/o.Kakinada, E.G.District. ..... PETITIONER

AND

1. The Dy.Commercial Tax Officer,

   Commercial Tax Department,

   Kakinada Circle-1, Kakinada,

   E.G.District.

2. Commercial Tax Officer,

   Commercial Tax Department,

   Kakinada Circle-1, Kakinada,

   E.G.District.

3. The Commissioner,

   Commercial Tax Department,

   Opp. Gandhi Bhavan,

   Hyderabad.

4. The Principal Secretary,

   Commercial Tax Department,

   Govt. of A.P., Hyderabad. .....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No. 1 in issuing form No. 7 Sale Notice dated 24-1-2005 under Section 36 of A.P. Revenue Recovery, Act, 1864 and Sale Notice dt. 12-2-2005 in regard to the petitioner's property to recover the sales taxs dues ignoring the petitioner's representation dt. 8-2-2005 declaring the action of the respondents 1 to 3 and 4 IDA, Ramanaiahpet, Kakinada, E.G. District as illegal, arbitrary and pass such other order or orders as it may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.KRISHNAM RAJU

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court at the admission stage made the following:

ORDER: (Per Hon'ble Sri Justice M.H.S.Ansari, J.)

Having heard the learned counsel for the petitioner, we are of the view that no case has been made out for entertaining the instant writ petition.

The petitioner has questioned the sale notice on certain grounds. It is the case of the petitioner that the notice issued for sale of the property, in question, suffers from certain illegalities and irregularities.

The sale is being conducted under provisions of the Andhra Pradesh Revenue Recovery Act, 1864. We find that under Sections 37-A and

38 of the said Act, provision is made for an application to be made for setting aside the sale. Section 37-A deals with the deposit of the sum equal to five per cent of the purchase money and a sum equal to the arrears of revenue for which the immovable property was sold. Section 38 deals with the irregularities or mistakes in the conduct of the sale. Accordingly, we are not inclined to entertain the writ petition on the alleged grounds of irregularities, as it is open to the petitioner to take appropriate proceedings in terms of Section 38 of the Act, if so advised.

Accordingly, without going into the merits and contentions raised in the writ petition, the same is dismissed with liberty to the petitioner to avail all the efficacious remedies provided in terms of statute itself.

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(M.H.S.ANSARI, J.)

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(T.CH.SURYA RAO, J.)

23.02.2005

Note:

Issue order on priority basis

B.O.

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To

1. The Dy.Commercial Tax Officer,
   Commercial Tax Department,
   Kakinada Circle-1, Kakinada,
   E.G.District.
2. Commercial Tax Officer,
   Commercial Tax Department,
   Kakinada Circle-1, Kakinada,
   E.G.District.

3. The Commissioner,

   Commercial Tax Department,

   Opp. Gandhi Bhavan,

   Hyderabad.

4. The Principal Secretary,

   Commercial Tax Department,

   Govt. of A.P., Hyderabad.

5. 2 C.Cs. to the Govt. Pleader for Commercial Taxes,

   High Court of A.P., Hyderabad (O.U.T.)

6. 2 C.D. copies